



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 2, 1992

Mr. Gary Keane
General Counsel
Administrative Offices
East Airfield Drive
Dallas/Fort Worth International Airport
P. O. Drawer DFW
Dallas/Fort Worth Airport, Texas 75261

OR92-523

Dear Mr. Keane:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16734.

You have received a request from the City of Irving for copies of certain appraisal reports performed under contract with the Dallas-Fort Worth International Airport ("DFW"). Specifically, the requestor seeks the reports resulting from sample appraisals of nine homes located within an area of proposed airport expansion.¹ You have submitted to us for review a sample appraisal report representative of all nine. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(5), and 3(a)(10) of the Open Records Act.

Section 3(a)(5) excepts from required public disclosure

¹You state that DFW has given the full report of the relevant appraisal to each of the nine homeowners and has communicated the results of the appraisals, but not the full report, to the Irving city council. According to your letter, the sample appraisals were prepared for the homeowners' information in an effort to establish the benefit of a proposal for mitigating the effects of airport expansion. The homeowner has a special interest in the detailed information about his home included in the appraisal report. In giving each homeowner the appraisal of his own property, DFW did not make this record "available to the public" within section 14(a) of the Open Records Act. *See generally* Open Records Decision No. 579 (1990) at 9 (informal discovery).

information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor.

Section 3(a)(5) is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision No. 564 (1990). Information excepted under section 3(a)(5) which pertains to negotiations for the acquisition of real or personal property may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982).

DFW claims in support of its argument under section 3(a)(5) that its negotiating position with respect to proposed acquisition in the area of the nine appraised properties will be impaired if the appraisal records are disclosed. Open Records Decision No. 564 acknowledged that information about the appraisal of one parcel of land may be relevant to the appraisal of another parcel of land in the same area. This ruling stated as follows:

Whether the appraisal report on a specific parcel of property would constitute information pertaining to the appraisal or purchase price of other land is a fact question which cannot be resolved in a formal decision of this office. Once the department makes a good faith determination that release of an appraisal report of property it has acquired would damage its negotiating position with respect to nearby parcels, we will accept that determination unless the records or other information show the contrary as a matter of law.

The nine sample properties appraised are among over one thousand properties potentially affected by the proposed airport expansion.

We have examined the documents submitted to us for review and conclude that DFW has made a good faith determination that release of the requested information would damage its negotiating position with respect to its acquisition plan. Accordingly, the requested information may be withheld from required public disclosure under section 3(a)(5) of the Open Records Act. As we resolve this matter under section 3(a)(5), we need not address the applicability of sections 3(a)(1) and 3(a)(10) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-523.

Yours very truly,

A handwritten signature in cursive script that reads "Susan Garrison".

Susan Garrison
Assistant Attorney General
Opinion Committee

SG/GCK/lmm

Ref.: ID# 16734

cc: Mr. Jack D. Huffman
City Manager
City of Irving
P. O. Box 152288
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